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OFFICE OF PETITIONS

In re Application of :
Peled et al. :
Application No. 09/463,320 : ON PETITION
Filed: January 22, 2000 :
Attorney Docket No. 1194/7 :
:

This is a decision on two petitions. The first petition, filed on March 7, 2002 under 37 CFR 1.181, is a Request for Withdrawal of Abandonment. The second petition, filed on April 4, 2002 under 37 CFR 1.137(b), is a Petition for Revival of an Unintentionally Abandoned Patent Application Under 37 CFR 1.137(b).

The petition filed under 37 CFR 1.181 is granted.
The petition under 37 CFR 1.137(b) is dismissed as moot.

Background

This application was held abandoned for failure to timely and properly reply to the Office communication, mailed on June 20, 2001, which set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136. A Notice of Abandonment was mailed on February 19, 2002.

Petition Under 37 CFR 1.181

Petitioner alleges to have timely filed a reply in the form of a sequence listing and floppy disk in response to the Office communication. In support of his contention, Petitioner has included with this petition a copy of a date stamped post card receipt, indicating PTO receipt of said reply on July 9, 2001. Petitioner has also re-submitted the response.

The original correspondence filed was not matched with the file at the time the Notice of Abandonment was mailed. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as a *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed

in the Office but was not matched with the application file.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. No fee is due and none has been charged.

Petition Under 37 CFR 1.137(b)

In view of the above, the petition under 37 CFR 1.137(b) is hereby dismissed as moot. A refund of the petition fee has been credited to Petitioner's deposit account, number 50-0311, as authorized in the petition.

The application file is being forwarded to Technology Center 1644 for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

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